



**TERMINAL DISCLAIMER TO OBVIATE A  
DOUBLE PATENTING REJECTION  
OVER A PRIOR PATENT**

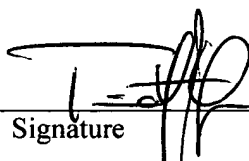
Docket Number:  
**F0397.70070US00**

In re Application of: Stephen C. Rowe  
Application No. 10/664,582  
Confirmation No. 3674  
Filed: September 17, 2003  
For: APPARATUS AND METHOD FOR LOCAL APPLICATION OF  
POLYMERIC MATERIAL TO TISSUE

The owner\*, Focal, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §154 to §156 and §173 as presently shortened by any terminal disclaimer, of prior Patent No. 6,468,520. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §154 to §156 and §173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is an attorney or agent of record.



Signature

November 11, 2004

Date

Timothy J. Oyer, Ph.D., Reg. No. 36,628

Typed or Printed Name

Terminal disclaimer fee under 37 CFR 1.20(d) included.

\*Statement under 37 CFR. 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP §324.